

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, ex. rel.	:	CIVIL ACTION
MARIA URBANEK and ROBERT	:	
COURTNEY,	:	
	:	
Plaintiffs,	:	
	:	
	:	NO. 00-4863
v.	:	
	:	
	:	
QUEST DIAGNOSTICS INCORPORATED,	:	
Defendants.	:	

MEMORANDUM

BUCKWALTER, S.J.

January 12, 2005

Defendant has filed a motion for summary judgment to which no response has been filed. Because this failure to respond violates the time specified by Local Rule of Civil Procedure 7.1(c), this court may accept as true all material facts asserted and properly supported as referenced in the summary judgment motion. Granting of the motion is proper if this court's review of the deficiencies in the evidence pointed out in defendant's motion entitles it to judgment.

A review of the present motion confirms that plaintiffs have not identified a single claim for payment. That is not unexpected as to plaintiffs' False Claims Act claim since the thrust of their case has been defendant's allegedly false implied certifications of compliance with the *Stark* law. Being unable to identify such a payment, their False Claims Act alleged violation must fail.

With regard to the alleged *Stark* violation, which this court allowed to proceed in denying defendant's earlier motion to dismiss, it appears that plaintiffs have not been able to supply evidence of the improper using of defendant's supplies or equipment; the giving by defendant of free professional courtesy discounts and testing to physicians; the waiving by defendant of out-of-network testing charges; or the providing by defendant of proper in-office phlebotomy services. This lack of evidence results in a failure of support for plaintiffs' *Stark* claims.

An order follows.

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	:	
QUEST DIAGNOSTICS INCORPORATED,	:	
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ORDER

AND NOW, this 12th day of January, 2005, upon consideration of defendant's motion for summary judgment, and the lack of response thereto, it is hereby ORDERED that the motion (Docket No. 51) is GRANTED. Judgment is entered in favor of Quest Diagnostics Incorporated and against all Relators on all claims in the First Amended Complaint, which is DISMISSED with prejudice.

This case is CLOSED.

BY THE COURT:

RONALD L. BUCKWALTER, S.J.